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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,877	02/09/2001	William J. Chastain	CA1066	9011
23493	7590	04/22/2004	EXAMINER	
SUGHRUE MION, PLLC 401 Castro Street, Ste 220 Mountain View, CA 94041-2007			WANG, TED M	
			ART UNIT	PAPER NUMBER
			2634	3
DATE MAILED: 04/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,877

Applicant(s)

CHASTAIN, WILLIAM J.

Examiner

Ted M Wang

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 09 February 2001.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-19 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 are pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 7-10, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Newson (US5,953,670).

- In regard claim 1, Newson discloses a CATV distribution network between a cellular communications base station and a plurality of mobile terminals with selecting an unused first portion of a first licensed communication channel (Figs.3a and 3b, and column 4 lines 1-54), configuring a transmitter to operate in said unused first portion (Figs.4, 7, and 9, and column 4 lines 1-54, column 5 line 37 – column 6 line 8), and transmitting downstream digital data using a transmitting antenna operating on said first portion (Figs.4, 7, and 9, and column 4 lines 1-54, column 5 line 37 – column 6 line 8).
- In regard claim 2, the limitation of selecting an unused second portion of a second licensed communication channel, configuring an upstream

downconverter to operate in said unused second portion, and receiving upstream digital data using a receiving antenna operating on said unused second portion can further be taught in (Figs.4, 7, and 9, and column 4 lines 1-54, column 5 line 37 – column 6 line 8).

- In regard claim 3, the limitation of first communications channel and said second communications channel are different can further be taught in Figs.3a and 3b, and column 4 lines 1-54.
- In regard claim 5, the limitation of enabling a subscriber to select a method of transmitting upstream data from using the unused second portion, using a cable connection, and using a wired connection can further be taught in Fig.7 and column 5 line 37 – column 6 line 8.
- In regard claim 7, all limitation can further be taught in Figs.3a and 3b, and column 4 lines 1-54, Figs.4, 7, and 9, and column 5 line 37 – column 6 line 8.
- In regard claim 8, all limitation can further be taught in Figs.4, 7, and 9, and column 4 lines 1-54, column 5 line 37 – column 6 line 8.
- In regard claim 9, all limitation is contained in claim 3. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 10, all limitation is contained in claim 5. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 14, all limitation can further be taught in Figs.3a and 3b; and column 4 lines 1-54, Figs.4, 7, and 9, and column 5 line 37 – column 6 line 8.

- In regard claim 15, all limitation is contained in claim 3. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 16, all limitation is contained in claim 5. The explanation of all the limitation is already addressed in the above paragraph.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson (US5,953,670) in view of Feldman et al. (US6,577,414).

- In regard claim 4, Newson discloses all of the limitation as described in the above paragraph and the limitation of downstream digital data is selected from a group consisting of telephony signals can further be taught in column 1 lines 10-24 except specifically teaching that it also includes high-speed data, digital video signals and DTV signals.

Feldman et al. discloses a passive optical network that integrates signals carrying broadcast CATV services into FTTH/C network that also provides high speed internet (data), digital video signals and DTV signals (Fig.2 element 110, Fig.3, Abstract lines 1-19, and column 6 lines 8-20) in order to provide all

residential telecommunications services (CATV, SDTV, HDTV, digital video, high speed internet, and telephony services) in a single network.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Newson's CATV distribution network in view of Feldman's disclosure in order to provide all residential telecommunications services (CATV, SDTV, HDTV, digital video, high speed internet, and telephony services) in a single network.

- In regard claim 11, all limitation is contained in claim 4. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 17, all limitation is contained in claim 4. The explanation of all the limitation is already addressed in the above paragraph.

6. Claims 6, 13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson (US5,953,670) in view of Kostreski et al. (US5,729,825).

- In regard claim 6, Newson discloses all of the limitation as described in the above paragraph except specifically teaching transmitting antenna comprises an array of transmitting antennae.

Kostreski et al. discloses a cellular system for distributing a plurality of television programs with an array of transmitting antennae (Fig.5 and column 9 lines 28-57) in order to attain substantially complete cell coverage.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Newson's CATV distribution network in view of Kostreski's disclosure in order to attain substantially complete cell coverage.

- In regard claim 13, all limitation is contained in claim 6. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 19, all limitation is contained in claim 6. The explanation of all the limitation is already addressed in the above paragraph.

7. Claims 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson (US5,953,670) in view of Oliver et al. (US5,646,942).

- In regard claim 12, Newson discloses all of the limitation as described in the above paragraph except specifically teaching receiving antenna comprises an array of receiving antennae.

Oliver et al. discloses a simulcast transmission of digital programs to shared antenna receiving system with an array of receiving antennae (Figs.7, 7A, 7B, and 10 element 31_{1-N} and column 16 lines 38-48, and column 17 lines 30-42) in order to produces the strongest received signal through the antenna at the subscriber's particular location.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Newson's CATV distribution network in view of Oliver's disclosure in order to produces the strongest received signal through the antenna at the subscriber's particular location.

- In regard claim 18, all limitation is contained in claim 12. The explanation of all the limitation is already addressed in the above paragraph.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted M Wang whose telephone number is (703) 305-0373. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Chin can be reached on (703) 305-4714. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Ted M Wang
Examiner
Art Unit 2634

Ted M. Wang


STEPHEN CHIN
SUPERVISORY PATENT EXAMINER
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